

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURGH, PA.,

Plaintiff,

C16-1534 TSZ

V.

MINUTE ORDER

SEATTLE SCHOOL DISTRICT NO. 1,

Defendant.

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff's motion for judgment on the pleadings, docket no. 18, is DENIED. For the purposes of a motion for judgment on the pleadings, "all allegations of fact of the opposing party are accepted as true" and "[t]he allegations of the moving party which have been denied are taken as false." *Austad v. United States*, 386 F.2d 147, 149 (9th Cir. 1989). Only if it appears that, on the facts so admitted, the moving party is clearly entitled to judgment as a matter of law can the motion be granted. *See id.* (citing *Walker Distributing Co. v. Lucky Lager Brewing Co.*, 323 F.2d 1, 3 (9th Cir. 1963)). Here, defendant denies that the policy attached to National Union's Complaint is a true, correct, and complete copy of Policy No. BE 308 48 67, Answer, ¶ 3.2, and likewise denies that the parties "mutually intended" the Sexual Abuse exclusion endorsements included in Policy Nos. BE 309 11 15, BE 309 11 62, and BE 309 92 07 to use the word "insured" instead of "insurer." Answer, ¶ 1.2. Taking plaintiff's allegations to the contrary as false, plaintiff has failed to show that it is clearly entitled to judgment as a matter of law.

(2) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 13th day of June, 2017.

William M. McCool
Clerk

s/Karen Dews
Deputy Clerk